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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

UNITED STATES OF AMERICA	(	NUMBER 3: 04-240-G
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VERSUS	(	
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HOLY LAND FOUNDATION, ET AL.	(	September 11, 2007

09:05

VOLUME 28
TRANSCRIPT OF THE TRIAL
BEFORE THE HONORABLE A. JOE FISH

A P P E A R A N C E S:

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09:05

P R O C E E D I N G S:

THE COURT: Good morning, Ladies and Gentlemen. When we left off yesterday Mr. Dratel was still questioning Dr. Brown. Are you ready to proceed, Mr. Dratel?

MR. DRATEL: I am.

THE COURT: Go ahead.

MR. DRATEL: Thank you, your Honor.

MR. NATHAN BROWN

RECROSS EXAMINATION

BY MR. DRATEL:

Q Good morning, Dr. Brown. You were asked on cross examination about the time had you spent in Israel. And before you lived there in 1999 and 2000, had you been to Israel before?

09:06

A Yes.

Q How many times?

A About a dozen.

Q And since you came back to the United States in 2000, have you been to Israel since?

A I go back regularly, yes.

Q And how many times a year?

A Two to three times a year.

Q Anything that Mr. Garrett showed you that you had not necessarily seen before change your opinion that

09:06 you gave yesterday regarding the zakat committees and their relationship with HAMAS?

A No.

Q Why is that?

A Well, I mean, we went over a lot of material. Much of it was irrelevant to the zakat committees. There was some material that was specifically about the zakat committees, but they were documents in which, you know, key terms were unclear. It was unclear who had written them, why, where they had come from. One of the most detailed documents contained information which I believe to be relevant about the Ramallah Zakat Committee. I didn't know how accurate it was and who had written them and why. So I took the little bits of information there 09:07 that was of uncertain origin, and I put it against the research I did -- time-on-the ground, the visits, talking to people about the zakat committees, the press, how Palestinians talk about zakat committees in the public sources and private conversations -- and the overwhelming body of evidence would seem to suggest that the zakat committees are independent.

Q And when did you begin your research in this whole area?

A 1997, 1998.

Q And does it continue even now?

09:08 A Yes.

Q And you were asked about newspaper coverage, what do you rely on for foreign broadcast news?

A Well, for the Palestinian media, I look at that myself. For foreign news sources, probably the most extensive and reputable service is one run by our own federal government, the Foreign Broadcast Information Service. I believe it goes under a different name now, the Open Source Center, but they translate large amounts of foreign broadcast media.

Q Do federal agencies rely on it?

A Extensively. It's available I believe to all federal agencies and university research libraries.

Q And you talked about the perception just now in

09:08 the Palestinian Society of the zakat committees. If those zakat committees are not perceived as being HAMAS-controlled, or part of HAMAS, what impact does that have on the hearts and minds theory that Mr. Avi and Dr. Levitt stated in the courtroom?

A Well, as I understand the theory, it is that HAMAS gives to or HAMAS supporters give to zakat committees in order to convince Palestinians that they are doing good work. That would require that zakat committees be publicly seen as controlled by HAMAS. So without that wide varied public perception, you wouldn't win the hearts

09:09 and minds of Palestinians to HAMAS by supporting the zakat committees.

Q You were asked by Mr. Garrett on cross examination yesterday about documents that the defense showed you and what kind of range that was. Did Mr. Avi -- Was he selective in the documents that he brought here? Do you know?

A I believe so. Obviously it's impossible to tell.

MR. GARRETT: Your Honor, I object. He said I believe so and it's impossible to tell. Anything beyond this is improper.

THE COURT: Sustained.

BY MR. DRATEL:

09:10 Q Were the documents seized by the Israelis that he did not bring --

MR. GARRETT: Your Honor, I object again. No basis for that knowledge whatsoever.

THE COURT: Sustained without a foundation about the witness' knowledge.

MR. DRATEL: Did Mr. Avi testify that the Israelis seized thousands of documents from the Palestinian institutions from 2000 forward?

A Yes.

Q And did he bring all of those documents here to

09:10 court?

A No.

Q Does that affect your evaluation of his presentation?

A Yes.

Q How so?

A Well, as a researcher, when I'm given a source, I like to know where it comes from and why. I want to know the universe of documents it is drawn from. In a case like this, if I were going to do research on Palestinian zakat committees from internal seized Palestinian documents, I would want to see the entire archive. I would want to see if I'm being presented with archival documents or documents that give a different conclusion. 09:11 So I would want to see what a particular individual decided to present to me from that collection. I prefer to go to the entire collection.

Q Do you have access to that collection?

A No.

Q You were asked yesterday about the Muslim Brotherhood and its relationship with HAMAS and specifically about Egypt. Have you done research on the Egyptian Muslim Brotherhood?

A Yes.

Q And have you spoken to members of the Egyptian

09:11 Muslim Brotherhood?

A Yes.

Q And have you talked about their views on HAMAS?

A Yes.

Q And are those views uniform among Muslim Brotherhood members in Egypt with respect to HAMAS?

A No, there is a general sense of support for the organization, a general sense that HAMAS is on their side. But some differences of opinion about the specific HAMAS actions and what they should do.

Q And could you explain further specifically?

A Certainly. I will give two examples. Last June when there was a brief civil war for control of Gaza, some members of the Muslim Brotherhood were clearly embarrassed

09:12 by HAMAS's actions. Others were more supportive. Specifically how to deal with Israel, there is an active debate within the Muslim Brotherhood now on the subject. And I have heard a variety of opinions from the Muslim Brotherhood about whether HAMAS should change it's attitude towards Israel.

Q And what was the spectrum of opinion with regard to the position that HAMAS should take toward Israel?

MR. GARRETT: Your Honor, I object. This is more than hearsay. He's entitled to state his opinion but not a vehicle for hearsay.

09:12 THE COURT: Overruled. You may answer.

A Specifically about a two-state solution, what Palestinians refer to as a historic compromise where they accept there would be an Israeli state and Palestinian state side by side. It would be a huge change for the HAMAS to accept this, and I have heard leading brothers of the Muslim Brotherhood to say they expect HAMAS to do this at some point, and others are clearly opposed to that step.

Q And is there similarity in other countries in terms of Muslim Brotherhood members and their attitude toward HAMAS that are divided?

A Yes.

Q About the term "Islamists." Are all Islamists

09:13 radical?

A No.

Q Is the Islamist community in Palestine broader than HAMAS?

A Yes.

Q Does HAMAS constitute the majority of Islamists in Palestine?

A Probably at some point. At other points, no.

Q Are there other Islamists parties in Palestine?

A Yes, certainly.

Q Are there Islamists -- Are these other Islamists

09:14 parties that are not terrorist parties in Palestine?

A Yes.

Q And open, independent Islamists as well, are they terrorist?

A Probably a small number, but by an large the independents tend not to be.

Q You were questioned yesterday -- And in terms of Palestinian Moslem Brotherhood, are all Palestinian members of the Muslim Brotherhood HAMAS?

A No. When HAMAS started out of the Moslem Brotherhood, it sort of became the main vehicle for the Muslim Brotherhood. But certainly at its founding there were members of the Muslim Brotherhood who did not switch their primary affiliation to HAMAS, and I still hear from 09:14 Palestinians today who would be identified as Muslim Brotherhood but not HAMAS.

Q And you were asked about the government of Israel and security and counter-terrorism. In your opinion, the government of Israel have other motives beyond counter-terrorism for its conduct towards Palestinians?

MR. GARRETT: Objection, your Honor, speaking about the motive of the Israeli government.

THE COURT: Overruled. You may answer.

A Yes, I think so. Obviously, they have very

09:15 strong security concerns for understandable reasons regarding terrorism, but for them to challenge not simply terrorists -- There is a broad diplomatic policy imposed on Palestinians.

Q And would you consider arrest of all the Palestinian council members who won in the 2006 Change and Reform Ticket -- The mass arrest of those by the government of Israel, would you consider that a security measure?

A It was a broad political measure, not an act to stop an attacker. The people arrested were not from the military wing of HAMAS. Some of them were not members of HAMAS. It essentially crippled the Palestinian government. They arrested the Deputy Prime Minister. The 09:16 Minister of Education, who's not a member of HAMAS but an Islamist. Basically prevented a legislative council from meeting by the arrests. So there was a broad political strategy.

Q You were asked about the elevated status of the zakat committees in Palestine. In your opinion, what's the reason for that?

A I think two things. What they do and how they do it. What they do is to give money to the neediest in Palestinian society. How they do it is through a fairly transparent organization. Low overhead. Simply devoting

09:17 most of their activities to collecting money and disbursement.

Q Is there an affiliation or nonaffiliation to a political party important to their status?

A It would be important for them to be seen as not associated with a political party.

Q Is that representation important to their continued success?

A Yes.

Q And in your opinion are the zakat committees political organizations?

A No.

Q Are they nonpartisan in operation and in the provision of aid in Palestine?

09:17 A Yes.

Q Are they perceived in Palestinian society as part of the HAMAS social network?

A No.

Q As part of HAMAS?

A No.

Q Are they controlled by or operated for the benefit of HAMAS?

A No, not to my knowledge.

MR. DRATEL: Thank you very much. Pass the witness.

09:17
THE COURT: Ms. Hollander?
MS. HOLLANDER: No, sir. Thank you.
THE COURT: Mr. Cline?
MR. CLINE: No, your Honor.
THE COURT: Mr. Westfall?
MR. WESTFALL: No, your Honor.
THE COURT: Ms. Cadeddu?
MS. CADEDDU: No, thank you, your Honor.
THE COURT: Mr. Garrett?
MR. GARRETT: Briefly. Thank you.

RECROSS EXAMINATION

BY MR. GARRETT:
Q Good morning, Dr. Brown. I just have a few questions for you. Okay?
09:18
A Sure.
Q You have just testified about the Defensive Shield material that was brought here by Mr. Avi. Is that correct?
A Yes.
Q Have you reviewed Defensive Shield material?
A I have seen what the CSS, the Israeli organization, released.
Q What's been publicly available?
A Yes.
Q Have you reviewed the archive materials? What

09:18 you just described is what you would want to do is look at an entire body of material before you select what's important to you, correct?

A Yes.

Q And have you had access and the ability to do that?

A No.

Q And are you aware that Mr. Avi has had the access and availability to do that?

A I assume.

Q And you testified about the sentiment of the Muslim Brotherhood in other countries. Is that correct?

A Yes.

Q How are you familiar -- Are you with the
09:19 sentiment of Muslim Brotherhood in the United States?

A I'm not familiar at all.

Q How familiar are you with the Palestinian committee in the United States?

A I'm not familiar at all.

Q Do you recall that document I showed you yesterday, that 3-15 document, talking about the Muslim Brotherhood in the United States? Do you recall that?

A I forgot.

MR. GARRETT: Your Honor, may I approach?

THE COURT: Yes, sir.

09:19 MR. DRATEL: Your Honor, I object as beyond the scope of redirect. I asked him about Egypt and other countries he studied, and he said he hasn't studied the United States.

THE COURT: How is this relevant?

MR. GARRETT: Affirming that he knows nothing about the Muslim Brotherhood movement.

THE COURT: I think he has already said that. Sustain the objection.

BY MR. GARRETT:

Q Now, Dr. Brown, when you went over to Israel and you studied in I guess writing this last book, Resuming Arab Palestine, my recollection is that the word "HAMAS" appears on two pages in that book. Is that correct?

09:20 A I didn't count, but I accept your counting.

Q Two pages. Okay. As you sit here today, Dr. Brown, regarding this subject, do you know anymore today than you knew yesterday?

A Not really, no.

MR. GARRETT: No further questions, your Honor.

THE COURT: Thank you, Dr. Brown. You may step down.

Who will be the defendant's next witness?

MR. CLINE: Your Honor, may we have a moment, please and may I consult with Mr. Jonas?